

**B**

## SUMMONS

IN THE CIRCUIT COURT OF KANAWHA COUNTY, WEST VIRGINIA

AMEE NICOLE TOPPING,

Plaintiff,

vs.

Civil Action No. 09-C-1789

Honorable Stucky

MACYS DEPARTMENT STORES  
INCORPORATED, an Ohio

corporation, and ESTEE LAUDER SERVICES, INC., . . . . 7 Corporate Center Drive  
a Delaware corporation, doing business as Melville, New York 11747  
MAC COSMETICS.

Defendants.

To the above-named Defendant: ESTEE LAUDER SERVICES, INC.

IN THE NAME OF THE STATE OF WEST VIRGINIA, you are hereby  
Summoned and required to serve upon, David L. White, plaintiff's attorney, whose  
address is The Masters Law Firm lc, 181 Summers Street, Charleston, West Virginia,  
25301, an answer including any related counterclaim you may have to the complaint  
and "Plaintiff's First Set Of Interrogatories" and Plaintiff's First Request For  
Documents" filed against you in the above styled civil action, a true copy of which is  
herewith delivered to you. You are required to serve your answer within thirty (30)  
days after service of this summons upon you, exclusive of the day of service. If you fail  
to do so, judgment by default will be taken against you for the relief demanded in the  
complaint and you will be thereafter barred from asserting in another action any claim  
you may have which must be asserted by counterclaim in the above styled civil action.

Dated: 9-24-09

By: Cathy S. Sutton  
Clerk of Court

AFFIDAVIT OF CERTIFICATE OF SERVICE

\_\_\_\_\_ is a credible person above the age of 18, who after being duly sworn deposes and says as follows:

On the \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_, I served a copy of the following legal documents:

- ( ) Summons and Complaint;
- ( ) Order and Petition;
- ( ) Interrogatories;
- ( ) Request for Production of Documents;
- ( ) Request for Admissions;
- ( ) Subpoena;
- ( ) Subpoena Duces Tecum

upon \_\_\_\_\_.

- ( ) named defendant in the aforesaid lawsuit  
named on the legal document
- ( ) witness in the aforesaid lawsuit named on  
the legal documents

by serving true copy (copies) of the same upon (him) (her):

- ( ) in person;
- ( ) by delivering the aforesaid document(s) to \_\_\_\_\_, a  
member of (his) (her) family above the age of sixteen (16) at said  
defendant(s) (witness) dwelling house or usual place of abode, (the  
defendant) (witness) then and there being present, and giving to such  
person information of the purport of the Summons and Complaint;
- ( ) by delivering the aforesaid legal documents to \_\_\_\_\_, the  
agent or attorney in fact authorized by appointment or statute to receive  
or accept service of process on (his) (her) (its) behalf, the West Virginia  
Secretary of State.

\_\_\_\_\_  
PROCESS SERVER

STATE OF WEST VIRGINIA  
COUNTY OF \_\_\_\_\_, TO-WIT:

Taken, subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_.  
My commission expires \_\_\_\_\_

\_\_\_\_\_  
NOTARY PUBLIC

IN THE CIRCUIT COURT OF KANAWHA COUNTY, WEST VIRGINIA

AMEE NICOLE TOPPING,

Plaintiff,

vs.

FILED  
2009 SEP 24 PM 4:28  
CATHY S. GIBSON, CLERK  
KANAWHA COUNTY CIRCUIT COURT

Civil Action No. 09-C-1289

Honorable Stucky

MACYS DEPARTMENT STORES  
INCORPORATED, an Ohio  
corporation, and ESTEE LAUDER SERVICES. INC.,  
a Delaware corporation, doing business as  
MAC COSMETICS.

Defendants.

COMPLAINT

Comes now Amee Nicole Topping, plaintiff, by her counsel, and for her cause of action against the defendants, states as follows:

1. Plaintiff, Amee Nicole Topping is a citizen and resident of Kanawha County, West Virginia.
2. Defendant, Macy's Department Stores Incorporated, (hereinafter referred to as "Macy's"), is an Ohio corporation licensed to conduct business in the State of West Virginia.
3. Defendant, Estee Lauder Services, Inc. is a Delaware corporation which manufacturers and distributes cosmetic products for use in the State of West Virginia and does business as "Mac Cosmetics" (hereinafter referred to as "Mac").
4. That at all times herein complained of the defendants were each acting for and on behalf of the other as agents, servants or employees and for and on behalf of

themselves.

5. On or about October 1, 2007, plaintiff was given a MAC makeup sample at the Macy's store in the Barboursville Mall my Macy's personnel.

6. On or about October 31, 2007, plaintiff had to go to the Emergency Department of Charleston Area Medical Center for chemical burns to her face caused by the makeup.

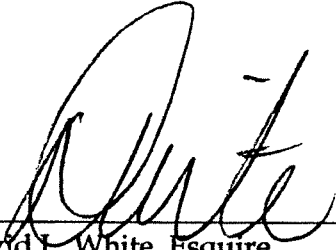
7. The aforesaid product was defectively tested, designed, manufactured, and distributed into the stream of commerce by defendants and the said defective condition caused by the defective manufacture, design, and lack of appropriate warnings rendered the product unreasonably and inherently dangerous.

8. As a direct and proximate result of the conduct of defendants, as set forth above, and otherwise, plaintiff, Amee Nicole Topping, has suffered permanent chemical burns to her face, endured great pain and suffering of mind and body, had to miss work and was subsequently fired, lost wages, and her children's school called and reported her to the Department of Health And Human Resources because of the change in her appearance.

9. As a further direct and proximate result of the conduct of the defendants, as set forth above and otherwise, plaintiff sustained a loss of companionship of her children, lost her job, and plaintiff has incurred, and will in the future endure, expenses related to her care and treatment, and is permanently disfigured.

WHEREFORE, the plaintiff demands damages in a sum in excess of the jurisdictional amount, to fully compensate her, together with prejudgment interest and costs and such other and further relief as the Court deems just.

PLAINTIFFS DEMAND A TRIAL BY JURY.

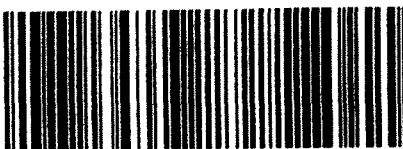
A handwritten signature in black ink, appearing to read 'D. White', is written over a horizontal line.

David L. White, Esquire  
West Virginia State Bar No. 4006  
The Masters Law Firm lc  
181 Summers Street  
Charleston, West Virginia 25301  
Counsel for Plaintiffs  
(304) 342-3106  
F:\4\256\p001.doc

AMEE NICOLE TOPPING

By Counsel

Office of the Secretary of State  
 Building 1 Suite 157-K  
 1900 Kanawha Blvd E  
 Charleston, WV 25305



9171 9237 9000 1000 1453 62



**Natalie E. Tennant**

Secretary of State  
 Telephone: 304-558-6000  
 Toll Free: 866-SOS-VOTE  
 www.wvsos.com

Estee Lauder Services Inc.  
 Robert M. Leo  
 7 Corporate Center Dr.  
 Melville NY 11747

ControlNumber: 283935

Defendant: Estee Lauder Services Inc.

Civil Action: 9/28/2009  
 09-C-1789

I am enclosing:

<input type="checkbox"/> summons	<input type="checkbox"/> affidavit	<input checked="" type="checkbox"/> 1 summons and complaint
<input type="checkbox"/> notice	<input type="checkbox"/> answer	<input type="checkbox"/> summons returned from post office
<input type="checkbox"/> order	<input type="checkbox"/> cross-claim	<input type="checkbox"/> summons and amended complaint
<input type="checkbox"/> petition	<input type="checkbox"/> counterclaim	<input type="checkbox"/> 3rd party summons and complaint
<input type="checkbox"/> motion	<input type="checkbox"/> request	<input type="checkbox"/> no return from post office
<input type="checkbox"/> suggestions	<input type="checkbox"/> certified return receipt	<input type="checkbox"/> notice of mechanic's lien
<input checked="" type="checkbox"/> 1 interrogatories	<input checked="" type="checkbox"/> 1 request for production	<input type="checkbox"/> suggestee execution
<input type="checkbox"/> original	<input type="checkbox"/> request for admissions	<input type="checkbox"/> Other
<input type="checkbox"/> subpoena duces tecum		

which was served on the Secretary at the State Capitol as your statutory attorney-in-fact. According to law, I have accepted service of process in the name and on behalf of your withdrawn corporation.

*Please note that this office has no connection whatsoever with the enclosed documents other than to accept service of process in your name and on behalf as your attorney-in-fact. Please address any questions about this document directly to the court or the plaintiff's attorney, shown in the enclosed paper. Please do not call the Secretary of State's office.*

Sincerely,

*Natalie E. Tennant*

Natalie E. Tennant  
 Secretary of State

*Oct 7, 2009  
 gmm*

*Rec'd Legal Dept*

# Service of Process Details

## Service Information

**Civil Action:** 09-C-1789

**Defendant:** Macy's Retail Holdings, Inc.

**Agent:** Stephen J. O'Bryan

**City/State/Zip:** Cincinnati, OH 45202

**Country:** US - United States of America

**County:** Kanawha

**Service Date:** 9/28/2009

---

## Delivery Information

**Certified Number:** 9171923790001000145355

**Delivered Date:** 10/2/2009 10:06:00 AM

**Delivered:** YES

**Status Details:** DELIVERED ([Complete list of USPS status descriptions](#))

NOTE: USPS requires a signature for non-delivered, returned to sender certified letters. If the signature below is that of either Kathy Thomas or Deanna Karlen, State of West Virginia, Central Mailing Office, this letter has not been served and was returned to the clerk of the appropriate court.





Date Produced: 10/05/2009

WV SECRETARY OF STATE

The following is the delivery information for Certified Mail™ item number 7192 3790 0010 0014 5355. Our records indicate that this item was delivered on 10/02/2009 at 10:06 a.m. in CINCINNATI, OH, 45202. The scanned image of the recipient information is provided below.

Signature of Recipient:

Delivery Section  
R Adams  
R Adams

Address of Recipient:

My St Mac 1<sup>st</sup> 7W. 7<sup>th</sup> St.

Thank you for selecting the Postal Service for your mailing needs. If you require additional assistance, please contact your local post office or Postal Service representative.

Sincerely,

United States Postal Service

The customer reference number shown below is not validated or endorsed by the United States Postal Service. It is solely for customer use.

Customer Reference Number: 3418879 47695721

# Service of Process Details

## Service Information

**Civil Action:** 09-C-1789

**Defendant:** Estee Lauder Services Inc.

**Agent:** Robert M. Leo

**City/State/Zip:** Melville, NY 11747

**Country:** US - United States of America

**County:** Kanawha

**Service Date:** 9/28/2009

---

## Delivery Information

**Certified Number:** 9171923790001000145362

**Delivered Date:** 10/1/2009 9:20:00 AM

**Delivered:** YES

**Status Details:** DELIVERED ([Complete list of USPS status descriptions](#))

NOTE: USPS requires a signature for non-delivered, returned to sender certified letters. If the signature below is that of either Kathy Thomas or Deanna Karlen, State of West Virginia, Central Mailing Office, this letter has not been served and was returned to the clerk of the appropriate court.

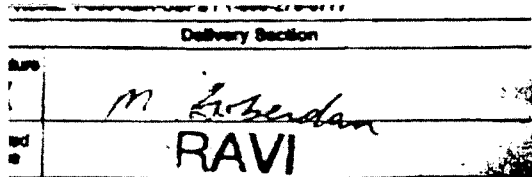


Date Produced: 10/05/2009

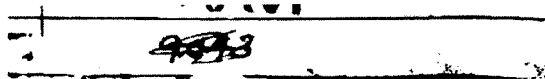
WV SECRETARY OF STATE

The following is the delivery information for Certified Mail™ item number 7192 3790 0010 0014 5362. Our records indicate that this item was delivered on 10/01/2009 at 09:20 a.m. in MELVILLE, NY, 11747. The scanned image of the recipient information is provided below.

Signature of Recipient:



Address of Recipient:



Thank you for selecting the Postal Service for your mailing needs. If you require additional assistance, please contact your local post office or Postal Service representative.

Sincerely,

United States Postal Service

The customer reference number shown below is not validated or endorsed by the United States Postal Service. It is solely for customer use.

Customer Reference Number: 3418879 47695721